

MARQUIS AURBACH

10001 Park Run Drive
Las Vegas, Nevada 89145
(702) 382-0711 FAX: (702) 382-5816

1 **Marquis Aurbach**

Brian R. Hardy, Esq.

2 Nevada Bar No. 10068

Hayden R. Smith, Esq.

3 Nevada Bar No. 15328

10001 Park Run Drive

4 Las Vegas, Nevada 89145

Telephone: (702) 382-0711

5 Facsimile: (702) 382-5816

bhardy@maclaw.com

6 hsmith@maclaw.com

Attorneys for Defendants

7 Nye County and Brian Kunzi

8 **UNITED STATES DISTRICT COURT**

9 **DISTRICT OF NEVADA**

10 MICHELLE LYNN STROTHER, an
individual,

11 Plaintiff,

12 vs.

13 NYE COUNTY, a political subdivision of the
14 State of Nevada; NYE COUNTY
DIRECTOR OF PLANNING, BRETT
15 WAGGONER, individually; NYE COUNTY
DISTRICT ATTORNEY, BRIAN KUNZI,
16 and individual; DOES 1 through 10,
inclusive; and ROE CORPORATIONS I
17 through X, inclusive,

18 Defendant.

Case Number:

2:23-cv-00947-GMN-NJK

**JOINT MOTION TO SET ASIDE
DEFAULTS; TO EXTEND TIME FOR
DEFENDANTS TO SERVE A
RESPONSIVE PLEADING TO
PLAINTIFF'S COMPLAINT; AND TO
EXTEND THE TIME FOR
DEFENDANTS TO FILE A RESPONSE
TO PLAINTIFF'S MOTION FOR
TEMPORARY PROTECTIVE ORDER
AND HEARING FOR PRELIMINARY
INJUNCTION (FIRST REQUEST)**

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20 On June 20, 2023 Plaintiff's Complaint [ECF 1] was filed with this Court, and on
21 July 24, 2023, Plaintiff's Motion for Temporary Protective Order and Hearing for
22 Preliminary Injunction (the "**Motion**") [ECF 12]. Plaintiff Michelle Lynn Strother, by and
23 through her counsel of record, the law firm of Kerr Simpson Attorneys at Law; and
24 Defendant Brian Kunzi ("**Moving Defendant**"), by and through his counsel of record, the
25 law firm of Marquis Aurbach, hereby jointly move this Court for an order to (1) set aside all
26 Defaults that have been entered against any of the Defendants, (2) to extend the time for all
27 Defendants to serve a responsive pleading to Plaintiff's Motion; and (3) to extend the time
28 for the Defendants to file a response to Plaintiff's Motion.

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1 Plaintiff and Moving Defendant hereby jointly move and stipulate as follows:

2 1. On June 28, 2023, Defendants Kunzi and Defendant Waggoner were
3 purportedly served with process when a copy of Plaintiff's Complaint and a Summons was
4 left with respective secretaries working in the Nye County District Attorney's Office and
5 Nye County Planning Department, pursuant to that Affidavit of Service included in
6 Plaintiff's respective request for default for Defendant Kunzi and Defendant Waggoner,
7 respectively [ECF 9-1] and [ECF 10-1].

8 2. The Clerk of Court entered a Default for both Defendant Kunzi and
9 Defendant Waggoner on August 8, 2023 [ECF 15].

10 3. Pursuant to LR IA 6-1, this is the first request for an extension of time to file
11 a responsive pleading to Plaintiff's Complaint and will not impact any dates in this case.

12 4. Pursuant to LR IA 6-1, excusable neglect exists for Defendants' failure to
13 timely file a responsive pleading to Plaintiffs' Complaint and to timely oppose the Motion as
14 Defendants were not personally served with process or the subsequent Motion, and there
15 was a miscommunication between the respective staff members who were served and the
16 Defendants in this matter.

17 5. As a result of the miscommunication referenced above, Defendants have only
18 just retained counsel to appear in this matter.

19 6. Plaintiff and Moving Defendant have stipulated and agree to a twenty-one
20 (21)-day extension of time from the date of the filing of this Joint Motion to give all
21 Defendants time to prepare any appropriate responsive pleading to the Plaintiff's Complaint
22 and a response to the Motion.

23 7. This joint motion is exclusive of Defendants' right to file motions under Rule
24 12 of the Federal Rules of Civil Procedure, and is not meant as a waiver of any such right or
25 of any affirmative defenses.

26 8. Based on the foregoing, Plaintiff and Moving Defendant respectfully request
27 that the deadline for all Defendants to file responsive pleadings to Plaintiff's Complaint and
28

1 to respond to the Motion, be extended to August 31, 2023, and that the Court enter the order
2 included herein.

3 Dated this 11th day of August, 2023

4 MARQUIS AURBACH

KERR SIMPSON ATTORNEYS AT LAW

5 By: /s/ Hayden R. Smith

By: /s/ George E. Robinson

6 Brian R. Hardy, Esq.
Nevada Bar No. 10068
7 Hayden R. Smith, Esq.
Nevada Bar No. 15328
8 10001 Park Run Drive
Las Vegas, Nevada 89145
9 Attorneys for Defendants
Nye County and Brian Kunzi

P. Sterling Kerr, Esq.
Nevada Bar No. 3978
George E. Robinson, Esq.
Nevada Bar No. 9667
2900 W. Horizon Ridge Pkwy, Ste. 200
Henderson, Nevada 89052
Attorneys for Plaintiff

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11
12 **ORDER**

13 IT IS SO ORDERED:

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UNITED STATES DISTRICT JUDGE

17 DATED: August 14, 2023
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